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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,578	01/24/2002	Hakan Barneman	1381-0284P	3991
2292	7590	11/28/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			GREENHUT, CHARLES N	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,578

Applicant(s)

BARNEMAN ET AL.

Examiner

Charles N. Greenhut

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-8 and 10-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

I. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-3, 5-8, and 10-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. Claim 1 recites, "A kit for installing shaft equipment for an elevator including at least one guide rail" in lines 1-2. Claim 1 is ambiguous because it is unclear whether the guide rail is required as an element of the kit or if the kit is merely intended for use with an elevator having a guide rail.

1.2. Claim 1 recites, "suspension elements being fixed to a ceiling of an elevator shaft" in line 3. The suspension elements are recited as components of the kit, which according to the preamble is the subject matter of the claim. When applicant recites the suspension elements connected to the elevator shaft it becomes unclear whether applicant is attempting to claim the subcombination of a kit for use in an elevator shaft or the combination of the kit in the elevator shaft. This renders the scope of the claim unascertainable.

1.3. Claim 1 recites the phrase "the hoisting equipment" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim.

1.4. Claim 1 recites, "the hoisting device moving the elevator car during installation of the guide rail." Firstly, applicant is improperly reciting a procedural step in an apparatus claim. Secondly, antecedent basis is not provided for the elevator car since

the elevator car has only been previously set forth as the object of a functional recitation. This amounts to an indirect limitation making it unclear whether the elevator car is a required limitation of the claim. Additionally, the phrase “during installation of the guide rail” implies the installation of a guide rail, also amounting to indirect limitation since no such recitation has been previously set forth. Furthermore, the recited “kit” appears to be intended for use with an “elevator including [a] guide rail” so it is unclear both whether and how installation of a guide rail is an element of the claim.

1.5. Claim 1 recites, “an overspeed governor is temporarily mounted to one suspension element, the suspension means is temporarily mounted to another suspension element” in lines 8-9. Applicant is improperly reciting procedural steps in an apparatus claim.

1.6. Claim 1 recites, “during installation of the elevator” in line 10. This phrase would require installation of the elevator, a step that cannot properly be an element of the claimed apparatus, “a kit.” Such recitations must be set forth as the object of functional language in an apparatus claim, i.e., ...suspension means for use during installation...

1.7. Claim 2 recites, “the suspension means being set on the suspension element from a top floor by the mounting tool.” Applicant is improperly reciting procedural steps in an apparatus claim.

1.8. Claim 5 recites, “the means for supporting the overspeed governor” in line 2. There is insufficient antecedent basis for this limitation in the claim.

1.9. Claim 5 recites, “the overspeed governor to be set on the suspension element” in line

2. Firstly, since multiple suspension elements are recited (claim 1, li. 2) applicant must specify to which suspension element he is referring. Secondly, claim 1 already recites the “overspeed governor [is] mounted to one suspension element” which contradicts the recitation of dependent claim 5 describing the governor as “*to be set on...*”

1.10. Claims 8 recites, “the shaft equipment includes at least one elevator rope” in lines

1-2. Applicant is reciting further limitations on elements previously set forth only as the object of intended use of the apparatus that is the subject matter of the parent claim. This renders it unclear whether the subcombination of the kit, or the combination of the kit and shaft equipment is being claimed.

1.11. Claim 10 recites, “the roof of the elevator car is a working platform” in lines 1-2.

Applicant is reciting further limitations on elements previously set forth only as the object of functional recitations. This renders it unclear whether the subcombination of the kit, or the combination of the kit and elevator car is being claimed.

1.12. Claim 10 recites, “the roof of the elevator car being the only working platform

within the shaft during installation.” The phrase “working platform” as interpreted in light of the specification, is a platform that is intended for workers to stand upon during the installation process. There are no structural recitations within the claim which make this distinguishable from the elevator floor however. The distinction is based solely on the intention of the user of the apparatus. The phrase “only working platform” therefore does not properly describe the claimed elevator roof since any

Art Unit: 3652

other surface, e.g., the floor could be a working platform. Since there is no way, other than the discretion of the user, to determine what constitutes a working platform, the phrase renders the claim indefinite.

1.13. Claims 11 & 12 recite, "the hoisting device being[/is] adjacent the suspension means at a top of the elevator shaft" in lines 2-3. Antecedent basis is not provided for the suspension means being at the top of the elevator shaft.

II. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 1-3, 5-8, and 10-13 is/are rejected under 35 U.S.C. 102(b) as being anticipated by KLEIN (US 5,230,404 A).

1.1. With respect to claims 1, 8, 10-13, as best understood by examiner, KLEIN discloses suspension elements (12), (at 17), (at 18) fixed to a ceiling (11), suspension means (13) connectable to a hoisting device (14) capable of moving an elevator car (4), having a roof (5) usable for installation of shaft equipment, an overspeed governor (17) mounted to one suspension element (Fig. 3), suspension means (13) mounted to another suspension element (12), and a further suspension element (18) forms an auxiliary suspension means.

- 1.2. With respect to claims 2-3, 5-6, as best understood by examiner, KLEIN additionally discloses a mounting tool bar (16) having means for mounting (11) the suspension means (13).
- 1.3. With respect to claim 8, though not discussed or labeled, a centrally located adjusting element, which is generally well-known in the art, can be seen in figure 3.

III. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 14-16 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over KLEIN .
 - 1.1. With respect to claim 14-16, KLEIN discloses but does not detail a safety gear (32).

Both KLEIN and applicant (spec. pg. 5) admit such an arrangement is well-known.

Pedal operated switches are also well-known in the art. It would have been obvious to one of ordinary skill in the art to employ a pedal-operated safety gear in order to ensure worker safety.

IV. Response to Applicant's Arguments

Applicant's arguments entered 9/27/06 have been fully considered.

1. Applicant's arguments with respect to the propriety of the rejections over NATSUME and CHAPELAIN of the presently amended claims are considered moot in light of the new grounds of rejection presented herein.

V. Conclusion

Art Unit: 3652

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG



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